

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 740 of 2018

IN THE MATTER OF:

Rishabhath Infrastructure (P) Ltd.

...Appellant

Vs

GTM Builders & Promoters Pvt. Ltd.

....Respondent

Present:

For Appellant: Mr. Amit Dhaka, Mr. Apoorv Malik and Mr. Saurabh Kalia, Advocates.

For Respondents: Mr. Sachchianand Jha, Sr. Advocate with Mr. Fanish Kumar Rai and Mr. Saurabh Jain, Advocates.

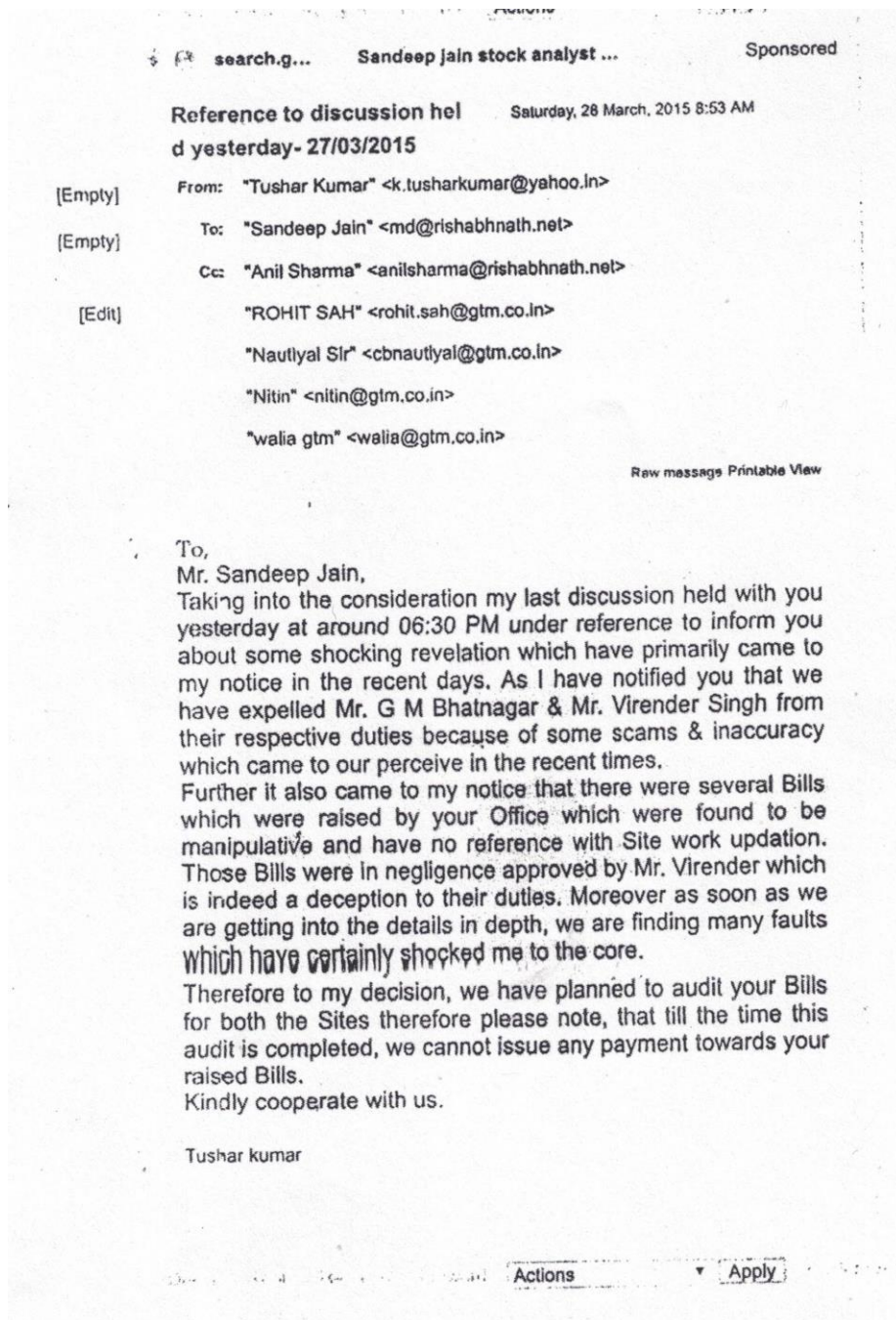
ORDER

23.04.2019: The Appellant (Operational Creditor) filed an application under Section 9 of I&B Code against 'M/s GTM Builders and Promoters Pvt. Ltd.' (Corporate Debtor). The Adjudicating Authority by impugned order dated 10th October, 2018 rejected the application on the ground of pre-existing dispute.

2. Earlier on 30th November, 2018 when the matter was taken up learned counsel for the Appellant submitted that there is no dispute with regard to Bill nos. 24 and 25 which were dated 17th December, 2016 and 22nd March, 2017 and which were the subject matter of the application under Section 9 of the I&B Code.

3. Learned counsel appearing on behalf of the Respondent submitted that demand notice under Section 8(1) was issued on 27th November, 2017 in reply

to which by reply dated 8th December, 2017 they have pointed out pre-existing dispute. Learned counsel for the Respondent also referred to an email dated 28th March, 2015 to suggest pre-existence of dispute, which reads as follows:-



4. On hearing learned counsel for the parties and perusal of the record we find that shocking revelation come to the notice of the Corporate Debtor and they expelled two of their staff from their respective duties because of “scams and inaccuracy” which came to their notice. It was specifically mentioned in the said letter that several bills which were raised by Operational Creditor were found to be manipulative and had no reference to site work updation.

5. Even if it is accepted that said dispute relates to the bills raised prior to 28th March, 2015, as we find that there is allegation about manipulation of bills/ invoices raised by the Appellant’s Office and had no reference to the site work updation we hold that the Adjudicating Authority rightly not relied on Bill Nos. 24 and 25 for initiation of Corporate Insolvency Resolution Process against the Respondent. In absence of any merit, the appeal is dismissed. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A. I. S. Cheema]
Member (Judicial)

(Kanthi Narahari)
Member (Technical)

am/gc

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